

STATE OF INDIANA ) IN THE MARION CIRCUIT/SUPERIOR COURT  
 ) SS:  
COUNTY OF MARION ) CAUSE NO. \_\_\_\_\_

49C010511PL0044212

STATE OF INDIANA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KENNETH LAWRENCE, and )  
GREAT AMERICAN YURTS, LLC, )  
 )  
Defendants. )

**FILED**

NOV 14 2005

*Debra Ann Muller*  
CLERK OF THE  
MARION CIRCUIT COURT

**COMPLAINT FOR INJUNCTION,  
RESTITUTION, COSTS, AND CIVIL PENALTIES**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, petitions the Court pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*, for injunctive relief, consumer restitution, costs, civil penalties, and other relief.

**PARTIES**

1. The Plaintiff, State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code § 24-5.0.5-4(c).
2. The Defendant, Great American Yurts, LLC, is a domestic limited liability company with a principal place of business in Marion County, located at 12233 Pendleton Pike, Indianapolis, Indiana, and transacts business with Indiana consumers.

3. The Defendant, Kenneth Lawrence, is an individual doing business as Great American Yurts, LLC, with a principal place of business in Marion County, located at 12233 Pendleton Pike, Indianapolis, Indiana, and transacts business with Indiana consumers.

### **FACTS**

4. A yurt is a domed, tent-like dwelling that sits on a platform and can be used as temporary or permanent shelter.

5. At least since May 28, 2004, the Defendants have offered yurts for sale to consumers.

#### **A. Allegations Regarding Consumer Eileen Comeaux's Complaint**

6. On or about September 27, 2004, the Defendants represented they would sell a thirty-foot yurt to Eileen Comeaux of Hana, Hawaii for Six Thousand Five Hundred and Eighteen Dollars (\$6,518.00), of which Ms. Comeaux paid Five Thousand Nine Hundred Eighty-Three Dollars and Sixty Cents (\$5,983.60) as a down payment.

7. At the time of purchase, the Defendants represented delivery would be approximately six to eight weeks.

8. On or about December 28, 2004, Ms. Comeaux paid the Defendants Five Hundred Thirty-Four Dollars and Forty Cents (\$534.40), the balance due on the yurt, as well as the shipping and handling, based upon the Defendants' representations the yurt was ready to be shipped.

9. On or about May 11, 2005, the Defendants finally shipped the yurt to Ms. Comeaux, however, the Defendants failed to ship the instructions for erecting the yurt.

10. Despite their prior representations, the Defendants refused to provide the deck plans and instructions to Ms. Comeaux.

11. In addition to the specific representations above, pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendants are presumed to have represented at the time of sale they would ship the deck plans and instructions to Ms. Comeaux within a reasonable period of time.

12. As of today, the Defendants have yet to ship the instructions to Ms. Comeaux.

**B. Allegations Regarding Consumers Stephen Malone and Cecelia Ramos' Complaint**

13. On or about October 7, 2004, the Defendants represented they would sell a thirty-foot yurt to Stephen Malone and Cecilia Ramos of Lompoc, California for Eleven Thousand Three Hundred and Eighty-Seven Dollars (\$11,387.00), of which Mr. Malone and Ms. Ramos paid Eight Thousand and Two Hundred Dollars (\$8,200.00) as a down payment.

14. At the time of purchase, the Defendants stated, "At time [of] purchase we can send you deck plans, how to insulated [sic] your yurt, and other plans for making yurt life simpler and better."

15. On November 30, 2004, the Defendants sent an E-mail to Ms. Ramos stating, "Our deliver date is an estimated 5 to 6 weeks for 30 foot yurts, FROM the time we receive your deposit . . . NOW as stated above, we have a 5 to 6 week turn around, if you included Thanksgiving weekend, we are do [sic] for shipment, tomorrow Dec. 1<sup>st</sup>."

16. On November 30, 2004, the Defendants sent an E-mail to Ms. Ramos stating, ". . . we will be trying to ship next week."

17. On or about December 13, 2004, the Defendant, Kenneth Lawrence, sent an E-mail to Ms. Ramos stating, "Went to Kentucky on Friday and picked up a load of 16 foot lumber should have your order done by Friday."

18. On or about May 24, 2005, approximately six (6) months after placing the order, Mr. Malone and Ms. Ramos received their yurt. However, the yurt was missing three (3) beams and a dome cover, as well as the instructions for erecting the yurt.

19. Despite their prior representations, the Defendants refused to provide the instructions to Mr. Malone and Ms. Ramos. As Mr. Malone and Ms. Ramos did not know how to erect the yurt, they were required to hire a crew at their own expense to assist them in doing so.

20. In addition to the specific representations above, pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendants are presumed to have represented at the time of sale they would ship the complete yurt, as well as all necessary instructions, to Mr. Malone and Ms. Ramos within a reasonable period of time.

21. As of today, the Defendants have yet to either ship the missing items, or to provide a refund to Mr. Malone and Ms. Ramos.

**C. Allegations Regarding Consumer Rebecca Fresco's Complaint**

22. On or about December 30, 2004, the Defendants represented they would sell a yurt with a stove kit and bubble top to Rebecca Cruz of Santa Cruz, California for Six Thousand Six Hundred Fifty-Two Dollars and Eighty Cents (\$6,652.80), of which Ms. Fresco paid Four Thousand Three Hundred Eighty-Six Dollars and Eighty Cents (\$4,386.80) as a down payment.

23. At the time of purchase, the Defendants represented delivery would be approximately four to six weeks after receipt of the initial payment.

24. On or about April 21, 2005, Ms. Fresco paid the Defendants Two Thousand Two Hundred and Sixty-Six Dollars (\$2,266.00), the balance due on the yurt, as well as the shipping and handling, based upon the Defendants' representations the yurt was ready to be shipped.

25. On or about May 25, 2005, the Defendants finally shipped the yurt to Ms. Fresco, however, the Defendants failed to ship the stove kit and bubble top Ms. Fresco ordered for the yurt.

26. Despite their prior representations, the Defendants have refused to provide the stove kit and bubble top to Ms. Fresco.

27. In addition to the specific representations above, pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendants are presumed to have represented at the time of sale they would ship the complete yurt to Ms. Fresco within a reasonable period of time.

28. As of today, the Defendants have yet to either ship the missing items, or to provide a refund to Ms. Fresco.

**D. Allegations Regarding Consumers Mitch and Joyce Torguson's Complaint**

29. On February 18, 2005, the Defendants sent an E-mail to the Torgusons stating, "Remember, we always have time to talk and answer any questions you might have, so give us a call. IF [sic] you have one of our yurts and [are] about to set it up let us know what day and time and we will have someone by the phone to answer your phone calls if you have any questions while you setup."

30. On or about February 19, 2005, the Defendants represented they would sell a twenty-foot yurt to Mitch and Joyce Torguson of El Cajon, California for Four Thousand Nine Hundred and Ninety-Nine Dollars (\$4,999.00), of which the Torgusons paid Two Thousand Four Hundred Ninety-Nine Dollars and Fifty Cents (\$2,499.50) as a down payment.

31. At the time of purchase, the Defendants stated, "At time [of] purchase we can send you deck plans, how to insulated [sic] your yurt, and other plans for making yurt life simpler and better."

32. Despite repeated requests for a receipt for the deposit, a contract for the product, terms and conditions, plans, completion date, and other promised information, the Defendants refused to provide the information to the Torgusons.

33. Upon learning the Defendants had many complaints against them, the Torgusons requested a refund.

34. Pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendants are presumed to have represented at the time of sale they would provide the represented materials to the Torgusons within a reasonable period of time.

35. As of today, the Defendants have yet to either provide the materials, or to provide a refund to the Torgusons.

**E. Allegations Regarding Consumers Celena Rye and Gabriel and Cathy Peabbles's transaction.**

36. On or about April 5, 2005, the Defendants represented they would sell a thirty-foot yurt to Celena Rye and Gabriel and Cathy Peabbles of Cape Elizabeth, Maine for Seven Thousand Five Hundred and Ninety-Nine Dollars (\$7,599.00), of which the consumers paid Five Thousand Three Hundred and Nineteen Dollars (\$5,319.00) as a down payment.

37. At the time of purchase, the Defendants stated, "At time [of] purchase we can send you deck plans, how to insulated [sic] your yurt, and other plans for making yurt life simpler and better."

38. Despite repeated requests for the deck plans, the Defendants refused to provide the information to the consumers.

39. Upon learning the Defendants had many complaints against them, the consumers requested a refund.

40. Pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendants are presumed to have represented at the time of sale they would provide the deck plans to the consumers within a reasonable period of time.

41. As of today, the Defendants have yet to either provide the deck plans, or to provide a refund to the consumers.

**F. Allegations Regarding Consumer Mollie Lowery's Transaction**

42. On or about June 18, 2005, the Defendants represented they would sell a twenty-foot yurt to Mollie Lowery of Bishop, California for Eight Thousand One Hundred and Twenty Two Dollars (\$8,122.00), of which Ms. Lowery paid Four Thousand Seven Hundred Eleven Dollars and Twenty Cents (\$4,711.20) as a down payment.

43. On or about June 18, 2005, the Defendants provided an invoice to Ms. Lowery estimating the shipping date of the yurt to be August 18, 2005.

44. On or about July 27, 2005, the Defendant, Kenneth Lawrence, sent an E-mail to Ms. Lowery stating, "At this time your yurt is 90 Percent finished, we now ask for final payment so when it is completed (7 days) we will be able to ship right away."



45. On or about July 28, 2005, Ms. Lowery paid the Defendants Three Thousand Four Hundred Ten Dollars and Eighty Cents (\$3,410.80), the balance due on the yurt, as well as the shipping and handling.

46. In addition to the specific representations above, pursuant to Ind. Code § 24-5-0.5-3(a)(10), the Defendants are presumed to have represented at the time of sale they would ship the yurt to Ms. Lowery within a reasonable period of time.

47. As of today, the Defendants have yet to either ship the yurt, or to provide a refund to Ms. Lowery.

### **COUNT I – VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT**

48. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 47 above.

49. The transactions referred to in paragraphs 6, 13, 22, 30, 36, and 42 are “consumer transactions” as defined by Ind. Code § 24-5-0.5-2(a)(1).

50. The Defendants are “suppliers” as defined by Ind. Code § 24-5-0.5-2(a)(3).

51. The Defendants’ representation to consumers the consumer transactions had sponsorship, approval, performance, characteristics, accessories, uses, or benefits the Defendants knew or reasonably should have known the transactions did not have, including but not limited to the Defendants’ representations the consumers would receive the yurts, as well as the instructions and/or materials, as referenced in paragraphs 6, 8, 9, 10, 13, 14, 18, 19, 22, 24, 25, 26, 29, 30, 31, 32, 36, 37, 38, and 42, are violations of the Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(1).

52. The Defendants' representations to consumers the Defendants would deliver the yurts, or otherwise complete the subject matter of the consumer transaction within a reasonable period of time, when the Defendants knew or reasonably should have known they would not, as referenced in paragraphs 7, 8, 11, 15, 16, 17, 20, 23, 24, 27, 34, 40, 43, 44, and 46, are violations of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(10).

53. The Defendants' representations to consumers the consumers would be able to purchase the yurts as advertised by the Defendants, when the Defendants did not intend to sell them as such, as referenced in paragraph 42, is a violation of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(11).

**COUNT II – KNOWING AND INTENTIONAL VIOLATIONS OF  
THE DECEPTIVE CONSUMER SALES ACT**

54. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 53 above.

55. The misrepresentations and deceptive acts set forth in paragraphs 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 34, 36, 37, 38, 40, 42, 43, 44, and 46 were committed by the Defendants with knowledge and intent to deceive.

**RELIEF**

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against the Defendants, Kenneth Lawrence and Great American Yurts, LLC, for a permanent injunction pursuant to Ind. Code § 24-5-0.5-4(c)(1), enjoining the Defendants from the following:

- a. representing expressly or by implication the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have which the Defendants know or reasonably should know it does not have;
- b. representing expressly or by implication the Defendants are able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when the Defendants know or reasonably should know they cannot or will not; and
- c. representing expressly or by implication the consumer will be able to purchase the subject of a consumer transaction as advertised by the Defendants, if the Defendants do not intend to sell it.

AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against the Defendants, Kenneth Lawrence and Great American Yurts, LLC, for the following relief:

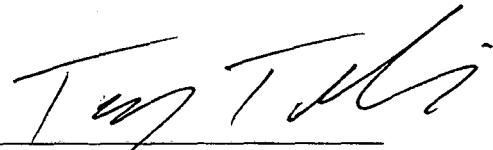
- a. cancellation of the Defendants' unlawful contracts with all consumers, including but not limited to the persons identified in paragraphs 6, 13, 22, 30, 36, and 42, pursuant to Ind. Code § 24-5-0.5-4(d).
- b. consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2), for reimbursement of all unlawfully obtained funds remitted by consumers for the purchase of yurts from the Defendants, including but not limited to the persons identified in paragraphs 6, 13, 22, 30, 36, and 42, in an amount to be determined at trial;

- c. costs pursuant to Ind. Code § 24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;
- d. on Count II of the Plaintiff's complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-4(g) for the Defendants' knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Thousand Dollars (\$5,000.00) per violation, payable to the State of Indiana;
- e. on Count II of the Plaintiff's complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-8 for the Defendants' intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana; and
- f. all other just and proper relief.

Respectfully submitted,

STEVE CARTER  
Indiana Attorney General  
Atty. No. 4150-64

By:

  
Terry Tolliver  
Deputy Attorney General  
Atty. No. 22556-49

Office of Attorney General  
Indiana Government Center South  
302 W. Washington Street, 5th Floor  
Indianapolis, IN 46204  
Telephone: (317) 233-3300